IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

C.W.P. No.1160 of 2006

Date of decision:4.12.2006

Tara Chand and another **Petitioners**

Versus

State of H.P. and others **Respondents**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr.S.S.Thakur, Judge.

Whether approved for reporting?[1] No

For the petitioners: **Mr.G.D.Verma, Senior Advocate, with Mr.B.C.Verma, Advocate**

For the respondents: **Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, Dy.A.G.**

Deepak Gupta, J.

Heard learned counsel for the parties. With the consent of the parties, the writ petition is heard and disposed of finally at the admission stage.

An eviction order was passed against the petitioners under the provisions of H.P.Public Premises and Land (Eviction and Rent Recovery Act), 1971 by the Collector, Karsog on 20th December, 2001. The petitioner, aggrieved by the said order, filed an appeal under the provisions of the said Act to the Commissioner, Mandi

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

Division, Himachal Pradesh. The Commissioner has dismissed this appeal vide his order dated 31.7.2006. According to us the Commissioner has dealt with the appeal in a very shoddy and shabby manner without considering the merits of the case at all. Paras 4 to 6 of the order passed by the Commissioner read as follows:-

> "4. Record of the lower court was requisitioned and the parties were called upon to address their arguments in the matter. On 3.7.2006, the counsel for appellant was prepared for arguments. He was advised to file written arguments in the matter within a week but he has not been able to file them till date and as such the grounds taken by the appellant were considered while deciding this case. Respondent was proceeded exparte.
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> 5. I have perused the record of the case minutely. Application for eviction of appellants was filed by the present respondent before the collector. Collector proceeded in the matter and issued notice to the appellants. Appellants filed reply to the notice on 5.3.1998. Based upon the application, reply thereto and the evidence adduced by the parties, the Collector has passed eviction order against the appellants. As such there is no infirmity in the orders of Collector.
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> 6. In view of the above, this appeal merits dismissal and is dismissed accordingly. Copy of this order be sent to the court below while returning its

record. Case file be consigned after its due completion.
Announced."

It is apparent that the counsel for the appellants was ready to argue the matter on 3rd July, 2006. For reasons best known to the Commissioner, though the counsel was ready, the Commissioner did not hear the arguments and asked the counsel to file written arguments. In our opinion, in a small matter, like the present one, which did not involve the decision of any complicated question of law, there was no need to adjourn the case only for the purpose of filing written arguments. Further more, if written arguments were not filed, the Commissioner was bound to hear oral arguments of the counsel and could not have disposed of the matter without hearing the oral arguments.

Para 5 of the order, quoted above, makes dismal reading. It shows total non application of mind on behalf of the appellate authority. The case has been disposed of without going into any of the questions raised in the appeal. Therefore, the order of the appellate authority being totally devoid of any reasoning is set aside

and the matter is remanded to the Commissioner to decide the same afresh after hearing both parties.

Before parting with the case we feel it necessary to observe that any judicial or quasi judicial authority must follow some basic norms before deciding a matter which affects the civil rights of the parties. He must hear the counsel for the aggrieved party or if the party is not represented by any counsel, the aggrieved party himself. In case any complicated questions of law are involved, such an authority may ask the party to file written arguments, but merely because written arguments have been ordered to be filed is no excuse for avoiding hearing the oral arguments. The written arguments may only be used as a supplement to the oral arguments unless the parties agree to the contrary. The officer concerned must also deal with all the points raised before him and give his reasoning as to why he accepts or rejects any particular argument(s).

With the above observations, the writ petition is disposed of.

(Deepak Gupta), J.

December 4, 2006(K) (S.S.Thakur), J.